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In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.94 of 2006

Palanisamy .. Petitioner

vs.

1. State of Tamil Nadu
   rep. by its Secretary
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The District Magistrate &
   District Collector
   Coimbatore District. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr.P.Venkatasubramanian
for Mr.C.Ramkumar

For respondents : Mr.Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Palanisamy, challenges the impugned order of detention dated 16.01.2006, detaining his brother Subramani @ Kaanaan, as "Boot-Legger" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of

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detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated 21.01.2006 was received by the Government on 24.01.2006 and remarks were called on 25.01.2006, reminder was sent on 03.02.2006, remarks were received on 07.02.2006. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 08.02.2006; order was passed by the Minister for Prohibition and Excise on 10.02.2006, rejection letter was prepared on 17.02.2006; the same was sent to the detenu on the same day itself and the rejection letter was served on the detenu on 20.02.2006. As rightly pointed out though the concerned Minister has passed an order on 10.02.2006, there is no explanation or reason for not forwarding the same to the detenu till 20.02.2006. In the absence of any explanation, we hold that the delay between 10.02.2006 and 20.02.2006 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,Prohibition & Excise Department
   Government of Tamil Nadu, Fort St. George, Chennai 600 009.

2. The District Magistrate & District Collector,Coimbatore District.

3. The Joint Secretary to Government, Public (Law and Order)
   Fort St.George,Chennai-9.

4. The Superintendent,Central Prison, Coimbatore.

5. The Public Prosecutor,High Court, Madras.

TEJ (CO)
RSM/26.4.2006

H.C.P.No.94 of 2006

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